

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tim Markbreiter	Team: Squad #07	CCRB Case #: 202206430	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/22/2022 9:30 PM, Friday, 09/23/2022 7:30 PM	Location of Incident: 47th Precinct stationhouse (located at 4111 Laconia Avenue)	18 Mo. SOL 3/23/2024	Precinct: 47		
Date/Time CV Reported Fri, 09/23/2022 9:15 PM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Fri, 09/23/2022 9:15 PM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. PO Natalie Diaz	13445	969652	047 PCT		
2. PO Steve Mayorga	20928	945241	047 PCT		
3. PO Omar Habib	00748	942899	047 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. PO Coleman Murphy	06021	970728	047 PCT		
2. PO Seville Legrand	09305	957447	047 PCT		
Officer(s)	Allegation	Investigator Recommendation			
A. PO Omar Habib	Abuse: Police Officer Omar Habib threatened § 87(2)(b) with the use of force on September 22, 2022				
B. PO Natalie Diaz	Abuse: Police Officer Natalie Diaz did not process § 87(2)(b) complaint regarding an officer on September 23, 2022				
C. PO Steve Mayorga	Abuse: Police Officer Steve Mayorga threatened to arrest § 87(2)(b) on September 23, 2022				
D. PO Steve Mayorga	Abuse: Police Officer Steve Mayorga did not process § 87(2)(b) complaint regarding an officer on September 23, 2022				

Case Summary

§ 87(2)(b) filed the following complaint in-person at the 47 Precinct stationhouse on September 23, 2022.

On September 22, 2022, § 87(2)(b) went to the 47th Precinct Stationhouse in the Bronx, to pick up items § 87(2)(b). § 87(2)(b) arrived to the 47th Precinct at approximately 9:30pm and was met by two officers, PO Omar Habib and PO Coleman Murphy (47th Precinct). The officers informed § 87(2)(b) that there was no clerk on duty at the desk and § 87(2)(b) proceeded to abruptly exit the precinct. As § 87(2)(b) exited, the front door of the precinct closed fast and PO Habib allegedly said to § 87(2)(b) “Slam my door and see what happens to you” (**Allegation A: Abuse of Authority**, § 87(2)(g)).

On September 23, 2022, § 87(2)(b) and his girlfriend, § 87(2)(b) went back to the 47th Precinct stationhouse at approximately 7:30 p.m., to file a civilian complaint against the officer from § 87(2)(b). § 87(2)(b) previous incident on September 22. § 87(2)(b) and § 87(2)(b) were met by PO Natalie Diaz (47th Precinct) at the front desk of the precinct and PO Diaz allegedly told § 87(2)(b) that he was only allowed to file a complaint online rather than in person (**Allegation B: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) then allegedly went to an unidentified lieutenant at the precinct and asked if he could file a complaint regarding his incident on September 22nd and file an additional complaint against PO Diaz for lying to him. The lieutenant said yes, and PO Diaz then provided § 87(2)(b) and § 87(2)(b) with complaint forms. PO Steve Mayorga (47th Precinct) then asked § 87(2)(b) and § 87(2)(b) to step outside of the precinct to file their complaints and PO Mayorga assisted them with the complaints. As PO Mayorga assisted § 87(2)(b) and § 87(2)(b), § 87(2)(b) became increasingly frustrated with PO Mayorga as PO Mayorga separated § 87(2)(b) and § 87(2)(b) while they were making complaints and told § 87(2)(b) unprompted to not include false information. PO Mayorga then allegedly threatened to “lock him up” and told § 87(2)(b) that he was crossing the line from making an allegation to disorderly conduct prompting § 87(2)(b) to cease preparing his complaint report and walk away from the stationhouse (**Allegation C: Abuse of Authority**, § 87(2)(g)). (**Allegation D: Abuse of Authority**, § 87(2)(g)). PO Mayorga then went inside the precinct and retrieved the community affairs officer, PO Seville Legrand (47th Precinct), and PO Legrand then assisted § 87(2)(b) and § 87(2)(b) in filing their complaints.

The CCRB received two Body-Worn Camera (BWC) videos from September 22, 2022 (**BR 3**) and four BWC videos from September 23, 2022 (**BR 4**). The BWC provided from September 22, 2022, was not captured by the officer’s present for the incident and did not show § 87(2)(b).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Omar Habib threatened § 87(2)(b) with the use of force on September 22, 2022

On September 22, 2022, § 87(2)(b) went to the 47th Precinct stationhouse at around 9:30 p.m. to retrieve his belongings § 87(2)(b). § 87(2)(b) girlfriend, § 87(2)(b) drove § 87(2)(b) to the precinct and waited in her car for § 87(2)(b) directly

outside of the precinct. When § 87(2)(b) entered the precinct, he was not greeted by an officer at the front desk as there was no clerk at the desk. § 87(2)(b) was instead met by two officers, PO Omar Habib and PO Coleman Murphy, and both officers told him that there was not a clerk present at the moment. § 87(2)(b) assumed that both of the officers present were about to leave for patrol, and he was a little annoyed that no one could assist him. § 87(2)(b) exited the precinct fast and pushed the front entrance door. § 87(2)(b) alleged that the door naturally slammed back on its own and he came to this conclusion because when he went to the precinct the following day to retrieve his belongings, he heard the door slam back on its own. Once the door slammed back, PO Habib and PO Murphy allegedly followed § 87(2)(b). § 87(2)(b) alleged that the officer who was clean shaven and short, which matches PO Habib's pedigree, said to him "slam my door and see what happens to you." § 87(2)(b) walked away from the officers because he feared if he said something back to them, the officers would have done something to him. § 87(2)(b) proceeded to make his way back to his girlfriend's car and the officers did not say anything else to him (BR 2).

In front desk stationhouse footage provided by the 47th Precinct, at timestamp 7:25, § 87(2)(b) appears to walk into the precinct at approximately 9:07 p.m. § 87(2)(b) went directly to the front desk of the precinct and pulls out a piece of paper from his pocket. Approximately seven seconds later, § 87(2)(b) leaves the desk and exchanges a few words with PO Habib and PO Murphy. At 7:54, § 87(2)(b) promptly exits the precinct, pushes the door, and the door appears to swing hard. PO Habib and PO Murphy then exit the precinct right after § 87(2)(b) (BR 5). At 7:55 of the Roof Front Entrance footage, § 87(2)(b) walks out of the precinct and walks to a car that is parked outside of the precinct. At 8:00, PO Habib and PO Murphy exit the precinct as § 87(2)(b) makes his way to the car. § 87(2)(b) appears to turn around and look at the officers, but it is unclear whether he said something to them as he is wearing a face mask. PO Murphy proceeds to walk away from the precinct and PO Habib stands by the front door. It does not appear that PO Murphy says anything to § 87(2)(b) although because of the lighting by the front door entrance of the precinct, it is unclear whether PO Habib spoke to § 87(2)(b) since PO Habib's face is not clear (BR 6).

PO Habib explained that on September 22, 2022, he was working a 311 Auto. PO Habib went to the stationhouse to hand in a summons and he testified that while he was handing in the summons, he heard the front door of the precinct shut loudly. PO Habib did not recall interacting with § 87(2)(b) while § 87(2)(b) was in the precinct and PO Habib did not say anything to § 87(2)(b) when he left the precinct. PO Habib added that he did not associate the door closing loudly with any specific individual. PO Habib said that he did not recall if he or PO Murphy said something to the effect of "slam my door and see what happens to you." (BR 7) PO Murphy testified that he was working Sector D1 on September 22, 2022, and that he was probably in the precinct at this time to pick up paperwork or take a bathroom break. PO Murphy did not have any recollection of having a conversation with § 87(2)(b) and he did not recognize § 87(2)(b) when shown stationhouse footage (BR 8).

Upon review of stationhouse footage, § 87(2)(b) was in the 47th Precinct stationhouse for no longer than 30 seconds before promptly exiting the precinct. While the front door of the stationhouse did appear to be pushed hard, it did not appear as if § 87(2)(b) had intent on slamming the door. Both PO Habib and PO Murphy had little to no recollection of this incident and footage from the stationhouse does not capture any audio of the brief conversation that the officers had with § 87(2)(b). Once PO Habib left the stationhouse, he stood right outside the front entrance of the precinct which was heavily shaded. With that, it is unclear if PO Habib said something to § 87(2)(b).

§ 87(2)(b) as § 87(2)(b) walked to his girlfriend's car, § 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Natalie Diaz did not process § 87(2)(b) complaint regarding (an) officer(s) on September 23, 2022

On September 23, 2022, § 87(2)(b) went back to the 47th Precinct stationhouse along with his girlfriend, § 87(2)(b) between 7 p.m. to 8 p.m. § 87(2)(b) went up to the officer at the front desk, PO Diaz, and asked her if he could make a civilian complaint against PO Murphy and PO Habib. PO Diaz told § 87(2)(b) that he was only allowed to file a complaint online and she did not provide § 87(2)(b) with a phone number or a website link to file this complaint. § 87(2)(b) then approached a lieutenant, who he could not identify, and asked him if he could make a report regarding the incident that took place on September 22, 2022. § 87(2)(b) also told the lieutenant that he wanted to file a report against PO Diaz for lying to him. PO Diaz then provided § 87(2)(b) with a complaint form and the lieutenant then left the precinct.

PO Diaz recorded two separate BWC recordings from this incident. PO Diaz's first BWC recording begins at 6:12 p.m. and the initial four minutes of the interaction between PO Diaz, § 87(2)(b) and § 87(2)(b) shows PO Diaz giving § 87(2)(b) his property back, § 87(2)(b). At 5:21, PO Diaz tells § 87(2)(b) "in regards to the other complaint that you want to fill out, they're going to let you know when they're ready for you." PO Diaz then proceeds to assist another person at the precinct and asks for § 87(2)(b) and § 87(2)(b) to give her moment. PO Diaz's BWC then stops recording at 6:18 p.m. (BR 9) PO Diaz's second BWC recording does not commence until 6:49 p.m., about 30 minutes since she deactivated her last BWC recording. In between PO Diaz's first and second BWC recording, as captured in the 47th Precinct's 1st Floor Main Entrance Stationhouse footage, § 87(2)(b) and § 87(2)(b) spend a majority of the time sitting on chairs at the front entrance of the 47th Precinct. PO Diaz did speak with § 87(2)(b) and § 87(2)(b) for roughly a minute, about 10 minutes after their last interaction. It is unclear what PO Diaz spoke to § 87(2)(b) and § 87(2)(b) about as this conversation was not captured on BWC. After waiting for about 47 minutes, PO Diaz ushered § 87(2)(b) and § 87(2)(b) back to the main desk with complaint papers (BR 10).

As per NYPD Patrol Guide Procedure 207-28, Complaints against uniformed members of the service may be made at any patrol precinct, police service area, transit district, traffic unit, Internal Affairs Bureau, or any other office of the Department, including the Office of the Police Commissioner or office of a deputy commissioner. Members of Service receiving complaints must interview complainant, give complainant first copy of Civilian Complaint Report to be prepared in complainant's own handwriting (BR 12).

§ 87(2)(b) alleged that PO Diaz initially told him that he could not file a complaint at the stationhouse and had to file a complaint online. § 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Steve Mavorga threatened to arrest § 87(2)(b) on September 23, 2022

Allegation (D) Police Officer Steve Mayorga did not process § 87(2)(b) complaint regarding an officer on September 23, 2022

§ 87(2)(b) was then helped by PO Mayorga and PO Mayorga told § 87(2)(b) that he was not allowed to file the complaint inside of the precinct and that he would need to go outside of the precinct. PO Mayorga told § 87(2)(b) that since he was filing the report against PO Diaz, he had to step outside in order for PO Diaz to do her job. § 87(2)(b) felt as if PO Mayorga was coercing him by making him step outside to file the report. § 87(2)(b) alleged that once he was outside, PO Mayorga started to “move funny” although § 87(2)(b) refused to elaborate on what the phrase “move funny” meant. § 87(2)(b) said that PO Mayorga was trying to convince him to alter his report. § 87(2)(b) had a frustrating demeanor because PO Mayorga allegedly told § 87(2)(b) that he had to be careful about what he wrote in his complaint and that the complaint could be used against § 87(2)(b). As § 87(2)(b) was trying to express to PO Mayorga how he was feeling about the situation, PO Mayorga told him that he was committing disorderly conduct and allegedly said that he could “lock him up.” PO Mayorga was the only officer outside during this situation and the only other witness was § 87(2)(b). PO Legrand, a community affairs officer at the 47th Precinct, came outside and asked to speak with § 87(2)(b) and § 87(2)(b). § 87(2)(b) initially did not go inside to speak with PO Legrand because § 87(2)(b) was too mad, but after about 15-20 minutes, § 87(2)(b) went to PO Legrand’s office and filed a complaint report against the officers from the September 22nd and the September 23rd incident (BR 2).

In PO Mayorga’s BWC, at 00:15, approximately 6:55 p.m., PO Mayorga approaches § 87(2)(b) and PO Diaz at the desk, and he asks § 87(2)(b) if she is making an allegation or a police report. § 87(2)(b) initially says a police report, not an allegation, and PO Diaz says that § 87(2)(b) told her that she wanted to make an allegation against her. § 87(2)(b) then amends her statement and says she wants to make an allegation. PO Mayorga then ushered § 87(2)(b) to walk outside with him. Once PO Mayorga and § 87(2)(b) are outside, at 1:00 § 87(2)(b) explains to PO Mayorga that PO Diaz made her feel like she was preventing her from submitting a report. § 87(2)(b) then says, “How you going to sit down and lie to me and tell that I can’t put my complaint in person.” PO Mayorga then explains to § 87(2)(b) how to fill out a report and emphasizes that § 87(2)(b) needs to fill out the report from her perspective. At 2:12, § 87(2)(b) exits the precinct and PO Mayorga explains to § 87(2)(b) and § 87(2)(b) that because § 87(2)(b) is making a report against PO Diaz, she is not allowed to fill out the complaint in front of PO Diaz in order to maintain the integrity of the complaint. PO Mayorga then separates § 87(2)(b) and § 87(2)(b) outside so that they would not influence each other’s complaints. § 87(2)(b) and § 87(2)(b) proceed to continue filing out their complaints and converse with PO Mayorga.

At 5:40, § 87(2)(b) asks PO Mayorga if PO Diaz was coercing them, and PO Mayorga tells § 87(2)(b) that PO Diaz was not and explains to § 87(2)(b) what all her options are when filing complaints against the NYPD. PO Mayorga then asks § 87(2)(b) if anyone explained that to her and she said that no one did. § 87(2)(b) then tells PO Mayorga that when he and § 87(2)(b) initially spoke with PO Diaz, she told them that they could not fill out a report. At 9:33, § 87(2)(b) shares with PO Mayorga the incident that occurred on September 22, 2022, that prompted him to file a complaint. PO Mayorga says that this is not what § 87(2)(b) initially told him and § 87(2)(b) said that he could not remember what exact words the officers said to him on September 22nd. PO Mayorga replies saying “I want you to write what you know for sure. Understand what I’m saying? I don’t want you getting in trouble.” § 87(2)(b) tells PO Mayorga that

he is telling him exactly what he previously said. § 87(2)(b) continues to get increasingly frustrated with the fact that PO Mayorga's is recording with his BWC and says "you're recording me right?" PO Mayorga confirmed that he was recording him and § 87(2)(b) says that PO Mayorga never told him he was being recorded. PO Mayorga then says that he did, and § 87(2)(b) chimes and says that PO Mayorga only told them he was recording once they were outside. At 10:40, § 87(2)(b) asks PO Mayorga for his badge number and PO Mayorga tells him "If you're going to try and put me down, then this is done." § 87(2)(b) tells PO Mayorga that he made him feel uncomfortable and then takes down PO Mayorga's name and badge number. PO Mayorga tells him "You can take mine." § 87(2)(b)

§ 87(2)(b) then says that PO Mayorga is trying to coerce him. § 87(2)(b) voice continues to get a little louder and more agitated. At 11:40, § 87(2)(b) tells § 87(2)(b) to stop as his voice keeps rising. PO Mayorga says "you see how you're acting? You're crossing the line from making an allegation to disorderly conduct." § 87(2)(b) then tells § 87(2)(b) to stop talking to the officers and § 87(2)(b) proceeds to walk away from the stationhouse. As § 87(2)(b) walks away from the precinct, he continues to yell at PO Mayorga and at 12:14, he and § 87(2)(b) tell PO Mayorga that he is trying to protect his friends. PO Mayorga says that he has been giving them nothing but options and § 87(2)(b) continues to fill out her complaint with PO Mayorga. At 14:11, § 87(2)(b) asks PO Mayorga "okay then who's going to do my report against you?" PO Mayorga asks, "against me?" § 87(2)(b) says yeah. PO Mayorga says "I gotta leave then. I gotta get my pen back and get you someone else." PO Mayorga then goes into the stationhouse to get another officer for § 87(2)(b) and the BWC recording ends (BR 13).

PO Mayorga explained that prior to the incident on September 23rd, he had built up a rapport with § 87(2)(b) while working as the cell attendant during § 87(2)(b) arrest from a few days prior. On September 23rd, 2022, PO Mayorga said that PO Diaz had come up to him at the rear of the stationhouse and asked him how to fill out the complaint report. PO Mayorga printed out a complaint sheet for PO Diaz and explained to her that she needs to provide § 87(2)(b) with all of his options when filing a civilian complaint, take down § 87(2)(b) statement, and turn on her BWC. Once PO Diaz went back to § 87(2)(b) PO Mayorga noticed that § 87(2)(b) and § 87(2)(b) were getting upset with PO Diaz and PO Mayorga heard them say that they wanted to file a complaint. PO Mayorga noted that § 87(2)(b) told him that no one was helping him, which was why he was upset with PO Diaz. PO Mayorga said that he then went to PO Diaz's desk and escorted § 87(2)(b) outside of the precinct because he thought it would best for § 87(2)(b) to go outside and cool off. PO Mayorga added that he did not want the situation to escalate and wanted to take § 87(2)(b) to a safer place. Once they were outside, § 87(2)(b) became agitated with PO Mayorga, and he was interrupting PO Mayorga when he was speaking to § 87(2)(b) PO Mayorga testified that § 87(2)(b) was not satisfied with the complaint options that PO Mayorga had provided, and that § 87(2)(b) was getting verbally irate by waving his arms and yelling. PO Mayorga tried to get § 87(2)(b) to calm down by telling him that he was crossing the line of making an allegation to disorderly conduct. PO Mayorga explained that § 87(2)(b) was clenching his fist and getting louder. § 87(2)(b) told PO Mayorga that he did not want to talk to him anymore and then left yelling and cursing as he walked down the ramp outside of the precinct. PO Mayorga testified that he never told § 87(2)(b) that he could be "locked up" but at that point, § 87(2)(b) could have been issued a summons or arrested based on his previous arrest. PO Mayorga said that § 87(2)(b) flailed his arms a little bit and had an overall immature attitude.

When shown his BWC from the incident, PO Mayorga noted that § 87(2)(b) began to cross the line into disorderly conduct once he asked for everybody's name and badge number. PO

Mayorga added that § 87(2)(b) began to clench his fist, get louder, and was talking down to everyone. PO Mayorga did not cite any penal code, nor did he elaborate on how § 87(2)(b) previous arrest could have led to him being issued a summons or arrested in relation to this interaction (BR 14). PO Mayorga continued to converse with § 87(2)(b) and she told PO Mayorga that she wanted to file a complaint against him as well. PO Mayorga told § 87(2)(b) that he would have to stop this interview and then he went into the precinct and retrieved a community affairs officer, PO Legrand. In reference to the comment about not wanting to get § 87(2)(b) in trouble, PO Mayorga testified that as a police officer, he is not allowed to perjure himself and that he did not want § 87(2)(b) to perjure himself for filing a false report because it is a misdemeanor offense (BR 14).

As per NYPD Patrol Guide Procedure 207-28, Complaints against uniformed members of the service may be made at any patrol precinct, police service area, transit district, traffic unit, Internal Affairs Bureau, or any other office of the Department, including the Office of the Police Commissioner or office of a deputy commissioner. Members of Service receiving complaints must interview complainant, give complainant first copy of Civilian Complaint Report to be prepared in complainant's own handwriting (BR 12).

According to NYPD Patrol Guide procedure 200-02 entitled Mission, Vision, and Values of the New York City Police Department, Members of Service must maintain a higher standard of integrity than is generally expected of others. Members of Service must value human life, respect the dignity of each individual, and render their services with courtesy and civility (BR 15).

Additionally, New York State Penal Code 240.20 entitled Disorderly Conduct, states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating thereof (BR 16).

§ 87(2)(b) and § 87(2)(b) initially waited in the stationhouse for about 47 minutes prior to even receiving a complaint form to fill out. After this, PO Mayorga told § 87(2)(b) that he had to file his complaint outside of the precinct and then while outside, warned § 87(2)(b) not to provide a false statement. Although PO Mayorga provided § 87(2)(b) with forms required to file a complaint, his actions toward § 87(2)(b) while § 87(2)(b) was preparing the complaint form did not reflect courteousness and respect mandated in the Patrol Guide. Additionally, telling § 87(2)(b) that his actions were bordering on disorderly conduct when § 87(2)(b) was expressing frustration, but not creating a public inconvenience or annoyance or alarm, § 87(2)(g) served to intimidate § 87(2)(b) who then walked away and stopped preparing his complaint report. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 17)
- PO Natalie Diaz has been a member-of-service for two years and this is the first CCRB complaint to which she has been a subject (BR 18). § 87(2)(g)
- PO Steve Mayorga has been a member of service for 15 years and has been a subject in one CCRB complaint and four allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim request was submitted to the New York City Office of the Comptroller on February 8, 2023 (**BR 20**)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad: 7

Investigator:	<u>Tim Markbreiter</u> Signature	<u>Inv. Tim Markbreiter</u> Print Title & Name	<u>2/13/2023</u> Date
Squad Leader:	<u></u> Signature	<u>Manager Vanessa Rosen</u> Print Title & Name	<u>June 2, 2023</u> Date
Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date